

The Berryville Town Council held three Public Hearings on May 9, 2006 in the Town Council Chambers at 15 E. Main Street, Berryville, Virginia.

The following were present:

|           |   |
|-----------|---|
| Council - | Richard G. Sponseller, Mayor<br>Wilson Kirby<br>Lawrence Russell, III<br>Allen Kitselman<br>Barry Nicholson   |
| Absent -  | Allan W. McWilliams, Recorder   |
| Staff -   | Keith R. Dalton, Town Manager<br>Desiree Moreland, Asst. Town Manager/Treasurer<br>Christy Dunkle, Asst. Town Mgr/Town Planner<br>Corporal Gerald Crosson, Police Department<br>Celeste Heath, Town Clerk |
| Press -   | Winchester Star: Bob Igoe   |

Mayor Sponseller called the public hearing to order to hear comments on the following:

**Updated Town of Berryville Comprehensive Proposed 2006-2007 Budget**

Mr. Dalton stated that the public hearing notice ran in the Clarke Times Courier on April 27, 2006 and May 4, 2006 (copy attached) and that no public comment was received in the town office.

Mr. Alton Echols, 400 Custer Court said that regarding the \$20,000 per year that is budgeted for the Main Street program – he has checked and most Main Street programs are funded by businesses not by Towns. He said that he thinks that there is no reason that businesses can't support this effort and that the money could be used elsewhere. He also said that it is traditional for Counties to pay for fire and rescue services, not Towns. He said that the Fire Company can take advantage of people's insurance and that the town should lean on the County to pay its share.

Ms. Susan Bailey, Berryville Main Street said that she differs with the previous comment and can provide documentation regarding the funding of other Main Street programs by localities. She said that she appreciated the Town's continued support.

Mr. Jay Arnold, 315 South Buckmarsh Street and a member of Enders Fire and Rescue said that the City of Winchester funds their Fire and Rescue Company and that his fire company appreciates the Town's support.

Upon motion by Council member Nicholson, second by Council member Kitselman, the public hearing was closed.

**Town of Berryville  
Public Hearing Notice  
Proposed  
2006-2007 Budget**

The Council of the Town of Berryville, Virginia will hold a Public Hearing at 7:30 PM or as soon thereafter as the matter may be heard, on Tuesday May 9, 2006, in the Town Council Chambers, 15 East Main Street, Berryville, to hear public comments on the following matter:

Proposed Budget for Fiscal Year 2006-2007. A synopsis of the Proposed Budget appears below:

**BUDGET SUMMARY**

**Resources and Revenues**

|                                     | FY 05-06               |           | FY 06-07            |
|-------------------------------------|------------------------|-----------|---------------------|
| <b>GENERAL FUND</b>                 |                        |           |                     |
| Fund Balance                        | \$ 270,341.00          | \$        | 1,419,000.00        |
| Revenue from Local Sources          | \$ 1,500,100.00        | \$        | 1,729,885.00        |
| Revenue from State Sources          | \$ 447,275.00          | \$        | 483,267.00          |
| Revenue from CIP Loan               | \$ 2,100,000.00        | \$        | -                   |
| <b>Total</b>                        | <b>\$ 4,317,716.00</b> | <b>\$</b> | <b>3,632,152.00</b> |
| <b>WATER FUND</b>                   |                        |           |                     |
| Fund Balance                        | \$ 53,955.00           |           |                     |
| Revenue from Local Sources          | \$ 715,120.00          | \$        | 819,400.00          |
| Availability Fees                   | \$ 264,040.00          | \$        | 199,600.00          |
| Revenue from CIP Loan               |                        |           |                     |
| <b>Total</b>                        | <b>\$ 1,033,115.00</b> | <b>\$</b> | <b>1,019,000.00</b> |
| <b>SEWER FUND</b>                   |                        |           |                     |
| Fund Balance                        | \$ 38,692.00           |           |                     |
| Revenue from Local Sources          | \$ 450,100.00          | \$        | 520,100.00          |
| Availability Fees                   | \$ 777,000.00          | \$        | 577,050.00          |
| Revenue from CIP Loan               |                        |           |                     |
| <b>Total</b>                        | <b>\$ 1,265,792.00</b> | <b>\$</b> | <b>1,097,150.00</b> |
| <b>TOTAL RESOURCES AND REVENUES</b> | <b>\$ 6,616,623.00</b> | <b>\$</b> | <b>5,748,302.00</b> |

**Expenses and Reserves**

|                               |                        |           |                     |
|-------------------------------|------------------------|-----------|---------------------|
| <b>GENERAL FUND</b>           |                        |           |                     |
| Maintenance and Operational   | \$ 1,512,679.00        | \$        | 1,958,064.00        |
| Debt Service                  | \$ 72,315.00           |           |                     |
| Capital Reserves and Expenses | \$ 2,435,428.00        | \$        | 1,519,000.00        |
| Contingency                   | \$ 34,056.00           | \$        | 155,088.00          |
| <b>Total</b>                  | <b>\$ 4,054,478.00</b> | <b>\$</b> | <b>3,632,152.00</b> |

**WATER FUND**

|                               |           |                   |           |                     |
|-------------------------------|-----------|-------------------|-----------|---------------------|
| Maintenance and Operational   | \$        | 483,308.00        | \$        | 572,251.00          |
| Debt Service                  | \$        | 140,412.00        | \$        | 140,893.00          |
| Capital Reserves and Expenses | \$        | 186,715.00        | \$        | 285,500.00          |
| Contingency                   | \$        | 9,565.00          | \$        | 20,356.00           |
| <b>Total</b>                  | <b>\$</b> | <b>820,000.00</b> | <b>\$</b> | <b>1,019,000.00</b> |

#### **SEWER FUND**

|                               |           |                     |           |                     |
|-------------------------------|-----------|---------------------|-----------|---------------------|
| Maintenance and Operational   | \$        | 293,566.00          | \$        | 347,522.00          |
| Debt Service                  | \$        | 201,262.00          | \$        | 89,504.00           |
| Capital Reserves and Expenses | \$        | 2,370,292.00        | \$        | 646,559.00          |
| Contingency                   | \$        | 5,730.00            | \$        | 13,565.00           |
| <b>Total</b>                  | <b>\$</b> | <b>2,870,850.00</b> | <b>\$</b> | <b>1,097,150.00</b> |

|                                    |           |                     |           |                     |
|------------------------------------|-----------|---------------------|-----------|---------------------|
| <b>TOTAL EXPENSES AND RESERVES</b> | <b>\$</b> | <b>7,745,328.00</b> | <b>\$</b> | <b>5,748,302.00</b> |
|------------------------------------|-----------|---------------------|-----------|---------------------|

Pertinent information, including complete copies of the Proposed Budget, is available for public inspection at the Town Office, 23 East Main Street, Berryville, during regular business hours.

Any person desiring to be heard regarding this matter should appear at the time and place designated herein.

The Town of Berryville does not discriminate in access to its programs and activities. Accommodations for persons with disabilities or physical impairment will be made upon prior request and notification.

BY ORDER OF THE TOWN COUNCIL  
KEITH R. DALTON, TOWN MANAGER

Mayor Sponseller called the TOWN COUNCIL MEETING to order at 7:37 p.m.

On motion by Council member Russell, seconded by Council member Kitselman and passed, the minutes of the Council meeting of April 11, 2006 were approved as written.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Lawrence Russell, III

Nay – None

Abstain - Barry Nicholson

Absent – Allan W. McWilliams, Recorder

On motion by Council member Russell, seconded by Council member Kitselman and passed, the minutes of the Council meeting of April 25, 2006 were approved as written.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Lawrence Russell, III  
                              Barry Nicholson

Nay – None

Absent – Allan W. McWilliams, Recorder

### **Citizen's Forum**

Doris Michael, 10 Battletown Drive appealed to the Town Council in the name of the Barns of Rose Hill to help in the endeavor to raise funds for the Barns of Rose Hill. She said that she would like the Town to help with insurance for fundraisers. Mayor Sponseller asked for clarification regarding the insurance issue. Ms. Michael said that insurance is needed for each fundraising event and she would like the Town to consider putting the events on the Town's policy or helping to pay for the insurance.

John Friant, Bel Voi Farm, representing the Barns of Rose Hill said that some things can't be completed without an agreement between the Town and the Barns. He said that there is no provision for a sustaining source of income after the restoration. He noted that there is a deed restriction that the Barns will be solely used for educational, recreational and cultural purposes and that these activities will not sustain the Barns financially. He said that it will take tax dollars to sustain these activities. He then requested a meeting to go over these matters and stated that if no agreement is met it would be the end of the Barns project.

Mayor Sponseller said that he is under the impression that the process to adopt an agreement has been started. Council member Kirby said that he is on the Barns Board and that there is a draft agreement but there are issues that the board would like to

change and that there needs to be a committee of the Town Council and the Barns Board to come to an agreement.

Mr. Dalton said that he is surprised that there is contention about the draft agreement. He said that he met with Diana Kincannon at her home regarding the draft agreement and talked about very specific maintenance issues and that no problem has ever been mentioned up to this point. He said that he has been involved in the Barns project since its inception and fundraising has always been for capital costs and to endow the operational program. It has always been the case that the Barns would pay for maintenance, insurance and program costs and this is the first time he has heard that the taxpayers would be asked to foot these costs.

Mr. Friant said that this may be a misunderstanding with Ms. Kincannon. Mr. Dalton said it is not a misunderstanding, this is a longstanding effort and taxpayer support for maintenance and insurance has never been discussed. Mr. Friant said that it is time to discuss sustaining this project.

Mayor Sponseller said that the Town Council has stated many times that they are in full support of this project and this relationship has never been contentious and doesn't have to be now. He said that the Town of Berryville and County of Clarke are providing approximately \$250,000 to \$300,000 in support for this project in the form of parking lots, access roads, water and sewer availability and other site work. He said that the Town Council remains committed to this project and that details of the agreement can be worked out with the Barns Board and Town staff.

Linda Canterbury, 301 South Church Street said she is here to support the Barns of Rose Hill and that a solution needs to be found to maintain the building once it is restored.

Greg Canterbury, 301 South Church Street, said that he is glad the Barns are being restored and that it is wonderful that the community has come together to raise funds to create a place for culture and the arts. He asked the Town Council to review the maintenance costs and work as a team to figure out the best solution.

Alton Echols, Ketoclin Land Company, said that the Methodist Church has been trying to do a senior project and would have to go through a rezoning which would add an extra burden to the project. He said that the Mary Hardesty House and Assisted Living Facility have added to the local tax base. He urged the Town Council to appoint a committee to work with Methodist Housing on the project.

Alton Echols, 400 Custer Court said that Winchester pays a supplement for fire and rescue services because it is a city. He said that the County's share of fire and rescue costs can be reduced if the Fire Company has insurance applied to services.

Doris Michael, 10 Battletown Drive said that she has worked with a lot of non-profits and the restrictions on the use of the Barns should not stop the organization from raising money for maintenance of the building. A gift shop and fundraisers could still operate within the restrictions.

Barbara Byrd, Barns of Rose Hill said that all of a sudden the Barns are about to be a reality, this why John Friant is concerned about the nitty gritty details. She said it is

important to continue working together and that she thanks the town Council for supporting the project.

Roberta Kerns, Battlefield Drive said that she came to the meeting with some trepidation but now feels reassured that the Barns have Town Council's support.

**Report of the Mayor, Richard G. Sponseller**  
**Resolution of Appreciation**

Mayor Sponseller read a Resolution of Appreciation for Allan W. McWilliams.

It was moved by Council member Kitselman, seconded by Council member Russell that the Council of the Town of Berryville hereby adopts the attached Resolution of Appreciation for Allan W. McWilliams.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Lawrence Russell, III  
                              Barry Nicholson

Nay – None

Absent – Allan W. McWilliams, Recorder

**Planning and Zoning Matters**

**Comprehensive Plan Update**

Ms. Dunkle reported that at their April 25, 2006 meeting, the Planning Commission voted unanimously to recommend approval of the Comprehensive Plan update.

It was moved by Council member Nicholson, seconded by Council member Kitselman that that the Council of the Town of Berryville approve the attached update of the 1999 Comprehensive Plan.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Lawrence Russell, III  
                              Barry Nicholson

Nay – None

Absent – Allan W. McWilliams, Recorder

**TOWN OF BERRYVILLE  
TOWN COUNCIL  
Resolution of Appreciation for Allan W. McWilliams**

WHEREAS, Allan W. McWilliams has loyally and faithfully served as a member of the Town Council of the Town of Berryville since July 13, 1982; and

WHEREAS, Mr. McWilliams first served as a ward representative from July 13, 1982 to July 9, 1991 and has served as the Town Recorder since that time; and

WHEREAS, Mr. McWilliams has served as the Chairperson of the Police and Security, Capital Improvements, Economic Development, and Budget and Finance Committees, and

WHEREAS, During his tenure Mr. McWilliams has championed fiscal responsibility, low taxes, long-range capital project planning, responsible planned growth, and the establishment of a professional community police force, and

WHEREAS, Mr. McWilliams is greatly respected for his common sense approach to governance, his unique and admirable sense of fairness, and his unerring dedication to the interests of the Town and all of its citizens;

NOW THEREFORE BE IT RESOLVED, by the Council of the Town of Berryville, that the invaluable contributions made by Mr. McWilliams to the current and future well-being of the Town of Berryville is hereby recognized, and

BE IT FURTHER RESOLVED, that a copy of this Resolution of Appreciation shall be entered upon the official minutes of the proceedings of the Town Council.

Adopted this the 9<sup>th</sup> day of May 2006.

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Richard G. Sponseller, Mayor

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF THE UPDATE OF THE 1999 BERRYVILLE  
COMPREHENSIVE PLAN

Date: May 9, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I move that the Council of the Town of Berryville approve  
the attached update of the 1999 Comprehensive Plan.

VOTE:

Aye: Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Lawrence Russell, III  
Barry Nicholson

Nay: None

Absent: Allan W. McWilliams, Recorder

ATTEST:

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Allan W. McWilliams, Recorder



### Text Amendment – Pharmaceutical Center

Ms. Dunkle reported that at their April 25, 2006 meeting, the Planning Commission voted unanimously to recommend approval of the text amendment defining “pharmaceutical center” and applying it to the B and BC zoning districts as Special Use Permits.

It was moved by Council member Nicholson, seconded by Council member Kitselman that the Council of the Town of Berryville approve the attached ordinance amending Article I Definitions of the Zoning Ordinance of the Town of Berryville defining “pharmaceutical centers”.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Lawrence Russell, III  
                              Barry Nicholson

Nay – None

Absent – Allan W. McWilliams, Recorder

It was moved by Council member Nicholson, seconded by Council member Kitselman that the Council of the Town of Berryville approve the attached ordinance amending Article VI, Section 610.3 of the Zoning Ordinance of the Town of Berryville establishing “pharmaceutical centers” as a Use by Special Permit in the BC Business Commercial zoning district.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Lawrence Russell, III  
                              Barry Nicholson

Nay – None

Absent – Allan W. McWilliams, Recorder

It was moved by Council member Nicholson, seconded by Council member Kitselman that the Council of the Town of Berryville approve the attached ordinance amending Article VI, Section 611.3 of the Zoning Ordinance of the Town of Berryville establishing “pharmaceutical centers” as a Use by Special Permit in the B Business zoning district.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Lawrence Russell, III  
                              Barry Nicholson

Nay – None

Absent – Allan W. McWilliams, Recorder

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF AMENDMENT TO ARTICLE I,  
DEFINITIONS OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

Date: May 9, 2006

Motion By: Allen Kitselman

Second By: Barry Nicholson

I move that the Council of the Town of Berryville approve the attached ordinance amending Article I Definitions of the Zoning Ordinance of the Town of Berryville defining "pharmaceutical centers".

VOTE:

Aye: Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Lawrence Russell, III  
Barry Nicholson

Nay: None

Absent: Allan W. McWilliams, Recorder

ATTEST:

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Allan W. McWilliams, Recorder

AN ORDINANCE AMENDING  
ARTICLE I DEFINITIONS  
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

Be it ordained, by the Council of the Town of Berryville, that the attached ordinance, Article I Definitions of the Town of Berryville Zoning Ordinance shall be, and is hereby amended by establishing a definition for "pharmaceutical centers."

Date: May 9, 2006

VOTE:

Aye:           Richard G. Sponseller, Mayor  
                Wilson Kirby  
                Allen Kitselman  
                Lawrence Russell, III  
                Barry Nicholson

Nay:           None

Absent:       Allan W. McWilliams, Recorder

ATTEST:       \_\_\_\_\_  
                Allan W. McWilliams, Recorder

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF AMENDMENT TO ARTICLE VI,  
SECTION 610 BC BUSINESS COMMERCIAL ZONING DISTRICT  
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

Date: May 9, 2006

Motion By: Allen Kitselman

Second By: Barry Nicholson

I move that the Council of the Town of Berryville approve the attached ordinance amending Article VI, Section 610.3 of the Zoning Ordinance of the Town of Berryville establishing "pharmaceutical centers" as a Use by Special Permit in the BC Business Commercial zoning district.

VOTE:

Aye: Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Lawrence Russell, III  
Barry Nicholson

Nay: None

Absent: Allan W. McWilliams, Recorder

ATTEST:

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Allan W. McWilliams, Recorder

AN ORDINANCE AMENDING  
ARTICLE VI, SECTION 610 BUSINESS COMMERCIAL,  
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

Be it ordained, by the Council of the Town of Berryville, that the attached ordinance, Article VI, of the Town of Berryville Zoning Ordinance shall be, and is hereby amended by establishing Section 610.3(b) allowing "pharmaceutical center" as a Use by Special Permit in the BC Business Commercial zoning district.

Date: May 9, 2006

VOTE:

Aye:           Richard G. Sponseller, Mayor  
                Wilson Kirby  
                Allen Kitselman  
                Lawrence Russell, III  
                Barry Nicholson

Nay:           None

Absent:       Allan W. McWilliams, Recorder

ATTEST:       \_\_\_\_\_  
                Allan W. McWilliams, Recorder

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF AMENDMENT TO ARTICLE VI,  
SECTION 611 B BUSINESS ZONING DISTRICT  
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

Date: May 9, 2006

Motion By: Allen Kitselman

Second By: Barry Nicholson

I move that the Council of the Town of Berryville approve the attached ordinance amending Article VI, Section 611.3 of the Zoning Ordinance of the Town of Berryville establishing "pharmaceutical centers" as a Use by Special Permit in the B Business zoning district.

VOTE:

Aye: Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Lawrence Russell, III  
Barry Nicholson

Nay: None

Absent: Allan W. McWilliams, Recorder

ATTEST:

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Allan W. McWilliams, Recorder

AN ORDINANCE AMENDING  
ARTICLE VI, SECTION 611 BUSINESS,  
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

Be it ordained, by the Council of the Town of Berryville that the attached ordinance, Article VI, of the Town of Berryville Zoning Ordinance shall be, and is hereby amended by establishing Section 611.3(b) allowing "pharmaceutical center" as a Use by Special Permit in the B Business zoning district.

Date: May 9, 2006

VOTE:

Aye:           Richard G. Sponseller, Mayor  
                Wilson Kirby  
                Allen Kitselman  
                Lawrence Russell, III  
                Barry Nicholson

Nay:           None

Absent:       Allan W. McWilliams, Recorder

ATTEST:       \_\_\_\_\_  
                Allan W. McWilliams, Recorder

Ms. Dunkle reported that the Planning Commission will be holding a public hearing on a 3-lot subdivision of 1.10 acres located at the corner of Tyson Drive and Lincoln Avenue. The Planning Commission also discussed the definition of family and requested that the staff research the issue further.

Ms. Dunkle said they the BADA denied a preliminary plat revision in Battlefield Estates due to non-compliance and not enough information for VDOT review.

Ms. Dunkle said that the ARB will hold a meeting on May 3 to review a deck at Tastee-Freez and modifications to the old Mario's and the old Hash Auctions.

She reported that the BZA approved a variance request at 9 Bundy Street.

### **Report of the Town Manager**

#### **Street and Utilities Committee Meeting**

Mr. Dalton said that the Streets and Utilities Committee met to discuss modifications of the Town's construction standards, availability fees for existing homes and the RFQ for the wastewater treatment plant upgrade.

Mr. Dalton said there were eight responses to the RFQ and that the Streets and Utilities Committee will meet on March 10 to review them

Mr. Dalton said that he has spoken to the town's Attorney as well as with Mary Daniel, an attorney working for the Barns of Rose Hill regarding the draft agreement between the Town and the Barns. He asked if the Council had any guidance for him in moving forward with the agreement.

Mayor Sponseller said that Council member Kirby is the Town Council's liaison to the Barns of Rose Hill board and that Mr. Dalton has been working with the Barns Board for some time and that he feels that this set up is working as it should. Council member Kitselman agreed that there is no need to change this arrangement. Council member Kirby said that he is confident that he and Mr. Dalton can handle the agreement.

### **Reports of Standing Committees**

a. Community Improvements – Barry Nicholson, Chair  
Nothing to add.

c. Streets & Utilities – Barry Nicholson, Chair  
Nothing to add.

d. Planning Commission Liaison - Lawrence Russell, Chair  
Nothing to add.

e. BADA Liaison



Nothing to add.

f. Personnel/Appointments – Richard Sponseller, Chair

Nothing to add.

g. Budget/Finance/CIP

Mr. Dalton reported that because of a computer server crash, financial figures were not available.

Mayor Sponseller reported that the Historic Preservation Commission would present and award to the Town for the facilitation of the work at 36 West Main Street on Thursday May 18, 2006.

There being no further business, on motion by Council member Russell, second by Council member Kirby and passed the Council meeting was adjourned at 8:37 p.m.

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Richard G. Sponseller, Mayor

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Allan W. McWilliams, Recorder